

REMARKS

In the foregoing amendments, editorial amendments were made to claims 1 and 3. In addition, claim 3 was rewritten as an independent claim including the limitations of claims 1 and 3. Claims 1-3 remain in the application for consideration by the examiner.

The Official action objected to claim 3, but stated that this claim would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph, set forth in the Office action and to include all the limitations of the base claim and any intervening claims. While original claim 3 depended from claim 2 which depended from claim 1; in the foregoing amendments, only the limitations of claim 1 were incorporated into amended independent claim 3. In light of the comments set forth in the Official action, applicant believes that the limitations in original claim 3 set forth novel and unobviousness aspects of the invention, such as, where the hydraulic motors are covered, etc. Therefore, it is not believed necessary to include the limitations of claim 2 into claim 3 in order this claim to define allowable subject matter. For these reasons, applicant respectfully requests a formal allowance of amended claim 3.

The Official action objected to the drawings because the reference numbers 21a, 25, 26, 23R, and 23L, which are shown in the drawings, are not set forth in the specification. Together with this response, applicant is

filing a Transmittal of Drawings, which includes four sheets of drawings encompassing figures 2-5. In these figures 2-5, the reference numbers 21a, 25, 26, 23R, and 23L were removed. Since the reference numbers are no longer in the drawings, they need not be described in the specification. For these reasons, applicant respectfully requests that the examiner reconsider and withdraw the objection to the drawings as set forth in outstanding Office action.

Claims 1-3 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. The Official action stated that claim 1 recites limitation "the left-hand and right-hand crawler driving hydraulic motors" in line 9, but there is insufficient antecedent basis for this limitation in the claim. In the foregoing amendments, claim 1 was amended by removing the word "the" at line 9 together with other editorial changes. Applicant respectfully submit that claims 1-3 particularly point out and distinctly claim that the subject matter regarded as the invention within the meaning of 35 U.S.C. §112, second paragraph. Therefore, applicant respectfully request that the examiner reconsider and withdraw this rejection.

Claims 1 and 2 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. publication No. 2002/0023786A1 of Kamikawa (Kamikawa). The Official action stated that Kamikawa discloses a crawler-

type vehicle comprising a frame 1 having a frame rear wall 42 and a rear cross member 46, the rear wall having apertures for allowing hydraulic piping to pass through to hydraulic motors from a hydraulic pump, as recited at page 4, line 42. The Official action stated that the applicant cannot rely on the foreign priority papers to overcome this rejection, because a translation of the papers has not been made of record in accordance with 37 C.F.R. § 1.55.

Together with this response, applicant is submitting a certified copy of Japanese application number 2000-045857 from which the present application claims priority under 35 U.S.C. §119. In addition, applicant is submitting a verified English translation of the priority document. The English translation of the priority document establishes that the presently claimed invention is supported in the priority document. Thus, the presently claimed invention has an effective filing date of February 21, 2001 -- the filing date of Japanese application number 2000-045857.

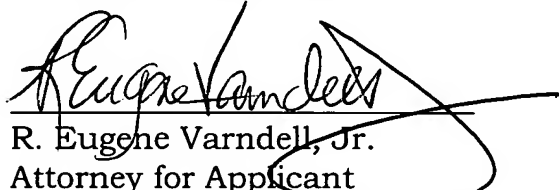
The effective filing date of the present application (February 21, 2001) is prior to the U.S. filing date of Kamikawa of August 10, 2001. Therefore, Kamikawa, cannot be a reference against the present claims under 35 U.S.C. § 102(e). For these reasons, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

In view of the foregoing amendments and remarks, favorable consideration and a formal allowance of claims 1-3 are respectfully

requested. While it is believed that the present response places the application in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolved any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which may become due, may be charged to our deposit account No. 22-0256.

Respectfully submitted,
VARNDELL & VARNDELL, PLLC


R. Eugene Varndell, Jr.
Attorney for Applicant
Registration No. 29,728

Atty. Case No. VX002404
106-A S. Columbus Street
Alexandria, Virginia 22314
(703) 683-9730

V:\Vdocs\W_Docs\July03\P0-152-2404 RS.doc

Attachments:

1. Claim to Priority with a certified copy of Japanese Appln. No. 2000-045857
2. Verified English translation of Japanese Appln. No. 2000-045857
3. Transmittal of Drawings with four sheets of drawings encompassing Figs. 2- 5